

FERC Orders 1000 and 1000A



**PRESENTATION BY
S. MARK SCIARROTTA
VELCO ASSISTANT GENERAL COUNSEL**

TO VSPC 9/12/2012

Orders 1000 and 1000A



- **Order 1000 (July 2011)**
 - Planning requirements and cost allocation requirements
 - Public policy-driven transmission projects
 - Non-incumbent transmission developer requirements
- **Order 1000A (May 2012)**
 - Reaffirms essentially all of Order 1000
 - Clarifies some compliance filing requirements
- **Compliance filing deadlines and obligations**
 - October 11, 2012 (most issues)
 - April 11, 2013 (regional cost allocation issues)
 - ISO-NE and Participating Transmission Owners have obligation
 - NESCOE, NEPOOL, others will likely file, but no obligation

NESCOE: New England States Committee on Electricity
NEPOOL: New England Power Pool PTO: Participating Transmission Owner

October 11, 2012 compliance filing outline



- Most of ISO-NE regional system planning and cost-allocation rules are compliant already
- Attachment K (ISO-NE Tariff, Section II) changes to implement:
 - Public policy-driven transmission projects
 - “Non-incumbent” transmission development
 - ✦ Option 1: FERC accepts PTOs’ Mobile-Sierra defense and preserves incumbent PTOs’ ROFR under the TOA
 - ✦ Option 2: FERC rejects PTO’s Mobile-Sierra defense; limited ROFR for near term reliability projects
- Mobile-Sierra Arguments

The *Mobile-Sierra Doctrine*, named after a pair of 1956 Supreme Court rate decisions, establishes a presumption that freely negotiated transactions subject to FERC’s jurisdiction satisfy the Federal Power Act’s requirement that rates be “just and reasonable,” and that presumption may be overcome only where FERC finds that the agreed-upon arrangements seriously harm the public interest.

PTO: Participating Transmission Owner

ROFR: right of first refusal

TOA: Transmission Operating Agreement

Planning Requirements



- **Public policy-driven projects**
 - Each public utility transmission provider must establish procedures to identify transmission needs driven by public policy requirements (federal and state statutes and regulations), and to identify potential solutions.
- **PTOs seeking:**
 - Full cost recovery for all prudently incurred costs where they are requested/obligated to undertake studies, etc.
 - Default cost allocation for public policy-driven transmission projects (principle and b/c required by Order 1000).
 - Encouraging coordinated decision-making process required for states to select public policy solutions.

ROFR and Mobile-Sierra



- Order 1000 requires elimination of incumbent TOs' ROFR to build transmission projects w/in existing service territory
- The FERC-approved TOA assures incumbent TOs the right to own and construct new transmission facilities within/connected to TOs existing facilities.
- Mobile-Sierra doctrine protects (under the “public interest standard”) all rights obtained via FERC-approved settlement.
- Order 1000A: FERC will address the Mobile-Sierra claims on a case-by-case basis in the compliance phase. Parties' filings to address both ROFR and no ROFR scenarios.

ROFR and Mobile-Sierra (cont'd)



- In the event that FERC rejects the PTOs' Mobile-Sierra defense the PTOs propose a limited ROFR.
- The majority PTO position is that PTOs have ROFR for projects falling within 5-year planning/need horizon.
- Qualification criteria for non-incumbents sponsoring a project, also under discussion.
- Issue is being discussed with ISO-NE, non-incumbents, NESCOE, and states.
- Generally, alignment between PTOs and ISO-NE.

Interregional coordination filing due in April 2013



- Compliance filings for interregional transmission coordination and cost allocation, due within 18 months of Order's effective date, being addressed separately.
- Each pair of neighboring transmission planning regions must:
 - Share information regarding needs and potential solutions.
 - Identify and jointly evaluate interregional transmission facilities.
- No requirement to produce an interregional plan or build facilities.
- Neighboring transmission planning regions must have a common interregional cost allocation method for new interregional transmission facilities based on principles state in the order.